

Remarks

Claims 1-31 are pending in this Application. In the Office Action mailed August 11, 2005, the Examiner rejected Claims 1-4, 6-7, 9, 12-13, 15, 17, 19-23, 25 and 28-31 under 35 U.S.C. 102(b) as being anticipated by Kang (US Patent No. 5,807,357), rejected Claim 4, 5, 10-11, 14 and 26-27 under 35 U.S.C. 103(a) as being unpatentable over Kang and rejected Claims 8, 18 and 24 under 35 U.S.C. 103(a) as being unpatentable over Kang in view of Dykstra et al. (US Patent No. 5,935,982). On page 7, the Examiner objected to Claim 16 as being dependent on a rejected base claim but would allow it if rewritten in independent form including all limitations of the base claim and intervening claims.

Applicants wish to thank the Examiner for providing a statement for reasons of indicating allowable subject matter by stating in the Office Action of August 11, 2005, that the prior art of record fails to disclose or suggest the use of flexible conduits for delivering medicament from an atomizer, the atomizer comprising a part of the transparent face mask. The Examiner also stated that providing a flexible conduit, as disclosed in the instant invention, would go against the teaching of Kang. Applicants also thank the Examiner for participating in the phone call of October 3, 2005, and for stating that an Amendment filed after the Office Action of August 11, 2005, in which claims were amended to include the allowable subject matter indicated by the Examiner and not disclosed in the prior art of record (see above), would be considered by the Examiner.

Applicants herewith respectfully submit amended independent Claims 1, 15, 19, 21, 30 and 31, amended to include a flexible conduit for delivering fog (medicine) from the atomizer to the eye or tissue. In view of the remarks submitted by the Examiner in the Office Action of August 11, 2005, in which the Examiner stated that "providing a flexible conduit would therefore go against the teaching of Kang," Applicants submit that amended Claims 1, 15, 19, 21, 30 and 31 are not anticipated by Kang nor are they obvious over Kang alone or in combination with any other reference, such as Dykstra et al. Dykstra et al. do not overcome the failed teaching of Kang, because Dykstra et al. do not suggest or disclose an apparatus or method for delivering medicine in an atomized form to the eye or tissue nor does Dykstra et al. suggest or disclose a flexible conduit for delivering fog (medicine) from an atomizer. Accordingly, there is no suggestion or motivation, either in Kang or Dykstra et al. or in the knowledge generally available to one of ordinary skill in the art to modify Kang with Dykstra et al. or to combine

the teachings of Dykstra et al. with Kang. As such, entry and allowance of amended Claims 1, 15, 19, 21, 30 and 31 as well as claims depending therefrom are respectfully requested. Applicants also respectfully submit amended Claims 10, 11, and 20, amended as to matters of form and/or to provide proper antecedent basis. Entry and allowance of amended Claims 10, 11 and 20 are respectfully requested. Applicants submit that no new matter has been introduced with this Amendment. Applicants request cancellation of Claims 7, 9, 12-14, 16 and 23. Applicants reserve the right to file claims that may include subject matter contained in the cancelled claims in a divisional and/or continuing application.

Conclusion

In light of the amendments and remarks presented herein, Applicants respectfully submit that amended Claims 1, 10, 11, 15, 19, 20, 21, 30 and 31 as well as original Claims 1-6, 8, 17, and 18 and previously presented Claims 22-29 are each in condition for allowance. No new matter is introduced with this Amendment. Accordingly, favorable consideration for and allowance of all pending claims are respectfully requested.

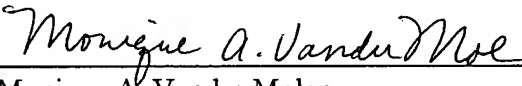
Applicants believe no fees are due with this response. If this is incorrect, Applicants hereby authorize the Commissioner to charge additional fees, other than the issue fee, that may be required by this paper to Deposit Account 07-0153.

If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Respectfully submitted,

GARDERE WYNNE SEWELL LLP

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